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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,979	10/21/2003	Stephan Braun	200208699-2	8110

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EXAMINER

MILLER, BRANDON J

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,979

Applicant(s)

BRAUN ET AL.

Examiner

Brandon J. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/28/2006 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenard et al. (US 2004/0010471 A1) in view of Fosdick (5,752,041).

Regarding claim 1 Lenard teaches a plurality of communications links, each link providing a certain amount of traffic capacity to a communications network, of which only a portion of the links to the communications network are enabled for use through the activation of a first license key (see paragraph [0024] and figure 1, license servers allowing user to access a license out of a plurality of authorized licenses, relates to a plurality of links, providing a certain amount of traffic, of which only a portion are enabled for use through activation of a license key). Lenard teaches a licensing framework for activating an upgrade license key to enable

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additional ones of the plurality of links to the communications network (see paragraph [0025] & [0026] and figure 1, license server obtaining one or more licenses for an additional user, relates to upgrade license key to enable additional ones of the links). Lenard teaches a communications network that is a wide area network (WAN), which each license server is linked to (see paragraph [0017]). Lenard does not specifically teach a telecommunications platform and a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key. Lenard does teach using a WAN or other network connection (see paragraph [0007]). Fosdick teaches a traffic monitoring element for measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the license key (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Lenard adapt to include a telecommunication platform and a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key because the license server can make a determination as to whether the number of licenses used is greater than that authorized by the license server and it would allow for reduced network communications traffic and improved system performance.

Regarding claim 2 Lenard and Fosdick teach a device as recited in claim 1 except for a traffic-monitoring element that is enabled for use by the licensing framework upon the activation of an upgrade license key. Lenard teaches activating an upgrade license key (see paragraph

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[0025] & [0026] and figure 1, license server obtaining one or more licenses for an additional user, relates to upgrade license key). Fosdick teaches a traffic-monitoring element that is enabled for use by licensing framework (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a traffic monitoring element that is enabled for use by the licensing framework upon the activation of an upgrade license key because this would allow for reduced network communications traffic and improved system performance.

Regarding claim 3 Lenard teaches a time-limited validity period, and further comprising a license enforcement element for deactivating the plurality of links enabled by the activation of the upgrade license key upon the expiry of the validity period (see paragraphs [0030]).

Regarding claim 4 Lenard and Fosdick teach a device as recited in claim 3 except for a license enforcement element that is arranged to progressively deactivate the plurality of links over a predefinable time period. Lenard does teach a license enforcement element that is arranged to deactivate the plurality of links over a predefinable time period (see paragraphs [0030]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a license enforcement element that is arranged to progressively deactivate the plurality of links over a predefinable time period because this would allow for reduced network communications traffic and improved system performance.

Regarding claim 5 Lenard teaches a license enforcement element that is arranged to deactivate all of the plurality of links immediately upon expiry of the upgrade license key (see paragraph [0030]).

Regarding claim 6 Lenard and Fosdick teach a device as recited in claim 3 except for wherein the license enforcement element is adapted to deactivate use of the traffic-monitoring element upon expiry of the upgrade license key. Lenard does teach a license enforcement element that is arranged to deactivate the plurality of links upon expiry of the upgrade license key (see paragraph [0030]). Fosdick teaches the use of a traffic-monitoring element (see col. 5, lines 16-18 & 32-36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a license enforcement element that is adapted to deactivate use of the traffic monitoring element upon expiry of the upgrade license key because this would allow for reduced network communications traffic and improved system performance.

Regarding claim 7 Lenard and Fosdick teach a device as recited in claim 1 except for a replicated telecommunications platform connected in a high-availability arrangement though a high-availability framework (see paragraph [0009] & [0011]). Lenard does teach using a WAN or other network connection. It would have been obvious to one of ordinary skill in the art at time the invention was made to make the device adapt to include telecommunications platform connected in a high-availability arrangement though a high-availability framework because a WAN uses such devices as telephone lines to span large geographic areas and Lenard suggest using other communication networks, this allow for reduced telecommunication traffic and improved system performance.

Regarding claim 8 Lenard teaches a plurality of communications links, each link providing a certain amount of traffic capacity to a communications network, of which only a portion of the links to the communications network are enabled for use through the activation of

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a first license key (see paragraph [0024] and figure 1, license servers allowing user to access a license out of a plurality of authorized licenses, relates to a plurality of links, providing a certain amount of traffic, of which only a portion are enabled for use through activation of a license key). Lenard teaches activating an upgrade license key to enable additional ones of the plurality of links to the communications network (see paragraph [0025] & [0026] and figure 1, license server obtaining one or more licenses for an additional user, relates to upgrade license key to enable additional ones of the links). Lenard teaches a communications network that is a wide area network (WAN), which each license server is linked to (see paragraph [0017]). Lenard does not specifically teach a telecommunications platform, measuring the traffic level of the platform and generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key. Lenard does teach using a WAN or other network connection (see paragraph [0007]). Fosdick teaches measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the license key (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Lenard adapt to a telecommunications platform, measuring the traffic level of the platform and generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key because the license server can make a determination as to whether the number of licenses used is greater than that authorized by the license server and it would allow for reduced network communications traffic and improved system performance.

Regarding claim 9 Lenard and Fosdick teach a device as recited in claim 2 and is rejected given the same reasoning as above.

Regarding claim 10 Lenard and Fosdick teach a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 11 Lenard and Fosdick teach a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 12 Lenard and Fosdick teach a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 13 Lenard and Fosdick teach a device as recited in claim 6 and is rejected given the same reasoning as above.

Regarding claim 14 Lenard r and Fosdick teach a device as recited in claim 7 and is rejected given the same reasoning as above.

Regarding claim 16 Lenard teaches a plurality of available communications links of which only a portion of the links, each link providing a certain amount of traffic capacity to a communications network, of which only a portion of the links to the communications network are enabled for use through the activation of a first license key (see paragraph [0024] and figure 1, license servers allowing user to access a license out of a plurality of available, authorized licenses, relates to a plurality of links, providing a certain amount of traffic, of which only a portion are enabled for use through activation of a license key). Lenard teaches a licensing framework for activating an upgrade license key to enable additional ones of the plurality of links to the communications network (see paragraph [0025] & [0026] and figure 1, license server obtaining one or more licenses for an additional user, relates to upgrade license key to enable

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additional ones of the links). Lenard teaches a communications network that is a wide area network (WAN), which each license server is linked to (see paragraph [0017]). Lenard does not specifically teach a telecommunications platform and a traffic monitoring element for measuring, in response to the activation of the upgrade license key, the traffic level of the platform and for generating data related to the measured traffic level for determining when the measured traffic level indicates that the number of links used is greater than that provided for by the base license key. Lenard does teach using a WAN or other network connection (see paragraph [0007]). Fosdick teaches a traffic monitoring element for measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the license key (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Lenard adapt to include a telecommunications platform and a traffic monitoring element for measuring, in response to the activation of the upgrade license key, the traffic level of the platform and for generating data related to the measured traffic level for determining when it is determined that the measured traffic level is indicative that the number of links used is greater than that provided for by the base license key because the license server can make a determination as to whether the number of licenses used is greater than that authorized by the license server and it would allow for reduced network communications traffic and improved system performance.

Regarding claim 17 Lenard teaches a plurality of communications links, each link providing a certain amount of traffic capacity to a communications network, of which only a portion of the links to the communications network are enabled (see paragraph [0024] and figure

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1, license servers allowing user to access a license out of a plurality of authorized licenses, relates to a plurality of links, providing a certain amount of traffic, of which only a portion are enabled). Lenard teaches a licensing framework for activating an upgrade license key to enable additional ones of the plurality of links to the communications network (see paragraph [0025] & [0026] and figure 1, license server obtaining one or more licenses for an additional user, relates to upgrade license key to enable additional ones of the links). Lenard teaches a communications network that is a wide area network (WAN), which each license server is linked to (see paragraph [0017]). Lenard does not specifically teach a telecommunications platform and a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key. Lenard does teach using a WAN or other network connection (see paragraph [0007]). Fosdick teaches a traffic monitoring element for measuring the traffic level and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the license key (see col. 5, lines 16-18 & 25-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Lenard adapt to include a telecommunication platform and a traffic monitoring element for measuring the traffic level of the platform and for generating data related to the measured traffic level for determining whether the number of links used is greater than that provided for by the base license key because the license server can make a determination as to whether the number of licenses used is greater than that authorized by the license server and it would allow for reduced network communications traffic and improved system performance.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lenard et al. (US 2004/0010471 A1).

Regarding claim 15 Lenard teaches a plurality of communications links, each link providing a certain amount of traffic capacity to a communications network, of which only a portion of the links to the communications network are enabled for use through the activation of a first license key (see paragraph [0024] and figure 1, license servers allowing user to access a license out of a plurality of authorized licenses, relates to a plurality of links, providing a certain amount of traffic, of which only a portion are enabled for use through activation of a license key). Lenard teaches a licensing framework for activating an upgrade license key to temporarily enable additional ones of the plurality of links to the communications network (see paragraph [0025] & [0026] and figure 1, license server obtaining one or more licenses for an additional user, relates to upgrade license key to enable additional ones of the links). Lenard teaches a communications network that is a wide area network (WAN), which each license server is linked to (see paragraph [0017]). Lenard does not specifically teach a telecommunications platform. Lenard does teach using a WAN or other network connection (see paragraph [0007]). It would have been obvious to one of ordinary skill in the art at time the invention was made to make the device adapt to include a telecommunications platform because a WAN uses such devices as telephone lines and Lenard suggest using other communication networks, this would allow for reduced telecommunication traffic and improved system performance.

Claim Objections

Claim 16 is objected to because of the following informalities: claim language in lines 10-11 include, "...measured traffic level for determining when it is determined that the measured

traffic level is indicative that the number of links ..." this claim limitation is unclear.

Appropriate correction is required.

Response to Arguments

Applicant's arguments filed 09/28/2006 have been fully considered but they are not persuasive.

Regarding independent claims 1, 8, and 15-17 the combination of Lenard and Fosdick teach a device as claimed.

Lenard teaches a licensing framework for activating an upgrade license key to enable additional ones of the plurality of links to the communications network (see paragraph [0025] & [0026] and figure 1). The upgrade license key, enabling additional ones of the plurality of links relates to a license server that obtains one or more licenses for an additional user, because when an additional license is obtained it creates an additional communication link between the server and the user (see paragraphs [0025] & [0026]). Creating additional communication links in this manner relates to each communication link providing a certain amount of traffic capacity to the communications network because changing the number of software licenses at the license server allows for it to increase its traffic capacity as more users are able gain access (see paragraphs [0025] & [0025]). Each link between the license server and user provides a certain amount of traffic to the wide area network (WAN), because each license server is linked to it (see paragraph [0017] and FIGURE 1). As mentioned in the rejection above the WAN relates to the claimed communications network.

In regards to claims 2, 9, and 13, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable

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invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Coley et al. Pub. No: US 2002/0161718 A1 discloses an automated system for management of licensed software.

Gold et al. Pub. No: US 2002/0188704 A1 discloses an upgrade licensed capacity on computer entity.

Gold US 6,662,284 B2 discloses a computer apparatus, method and memory including license key.

Griswold US 5,940,504 discloses licensing management system and method in which datagrams including an address of a licensee and indicative of use of a licensed product are sent from the licensee's site.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Miller whose telephone number is 571-272-7869.

The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to be "B. J. ...", written over the date.

November 22, 2006

A handwritten signature in black ink, appearing to be "George Eng", written over the printed name and title.

GEORGE ENG
SUPERVISORY PATENT EXAMINER